

W. Ambler

PERJURY DISPLAY'D.

OR A

NARRATIVE of the CASE

OF THE LATE

Deputy Comptroller of SUNDERLAND,

THE

CAUSES of his DISMISSION,

AND THE

Proceedings upon an Action tried at the late
Affizes held at DURHAM.

Wherein is Contained

Some Account of the Trade of SUNDER-
LAND, of the Losses the REVENUE and
EXCHEQUER have sustained by PERJURY,
and of some other pernicious Effects and
Consequences of that heinous Crime.

With several other interesting Particulars.

Laomedontæ sentis Perjuria Gentis. VIRG.

Magna est Veritas, et prevalebit.

L O N D O N :

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M, DCC, LII.

In Trin: Term 1753. The Court of King's
Bench granted an Information ag^t one
Thomas Daniel, ^{Deputy} Collector of y^e Customs in
the Port of Sunderland as Author of this
Pamphlet. it came on to be tryed at
Durham Apr^y 4 1753. before Baron Adams,
when y^e Def^t acknowledged himself y^e
Author, & begged pardon for his
Offence, & the Proseutor dropped
y^e matter.

The Paragraph's scored with the Pen, were
the passages set forth in y^e Information.



THE P R E F A C E.

THESE few pages are published at this juncture, in order to illustrate and explain a cause tried at the late assizes at *Durham*, which, as it was a very uncommon one, was so puzzled and confounded, that it was next to impossible for either the judge, the jury, or any body else, thoroughly to understand it; and also to expose the base means used to gain a verdict.

They are also intended to vindicate an officer, against whom, dismissal, and the loss of a lawsuit, may probably raise strong prejudices. Many people judge by events, jump into conclusions, and condemn or applaud men, just as good or ill success attends them. Such people it is proper to disabuse: the native simplicity, and persuasive force of truth are such, that, as they never can be perfectly imitated, so neither can they be ultimately overpower'd by the most specious falsehood; and we don't doubt but it will satisfactorily appear, that a faithful and diligent discharge of his duty was the real occasion and origin of this officer's dismissal, & that the cause was gain'd by false evidence.

It may also be of publick utility to expose a scene of the most cool, wilful, and habitual perjury, that perhaps ever subsisted in this or any other nation. Perjury is a very heinous, and a very formidable crime, and, in this nation, I'm afraid, is become a very common one. Many have lost their properties,

ties, many their reputations, some their lives, by the perjury of witnesses in the courts of justice. The legislature hath already made some new provisions to prevent the growth of a crime, so dangerous to society, and, perhaps, may add something further; for what dangers may not be apprehended from men accustomed to perjury, when they are actuated by malice, or inflamed by rage!

Far be it from me to say or do any thing that has the least tendency to prejudice the regular, fair, and lawful trade, of any town. Nor is it without the greatest reluctance, that I now undertake to communicate to the publick, the unfair, and ungenerous proceedings of 50 or 60 persons, as many of them were probably constrained, misled, or deceived, and as the best and worthiest amongst them are, since this officer's dismissal, become his very good friends; but as some still continue their outrages, add insult to insult, and injury to injury, he would be wanting to himself, to his reputation, and to the publick, if, after the late shocking treatment he has met with, he were to keep silence any longer. He has endured a series of undeserved calumnies for three years, with exemplary patience: *Juvenal* had not so much reason to cry out, — *Nunquamne reponam?*

Perjury display'd, &c.

1. **F**OR the better understanding the following narrative it will be necessary to premise a few cursory observations upon the trade of *Sunderland*; the legal regulations under which it is allow'd to be carried on, the fees due to the officers of the customs according to these regulations, and the irregularities and illegal proceedings of some persons concerned in the said trade.

2. The trade of *Sunderland* consists chiefly in the exportation of coals: about 140,000 chaldrons, of 53 hundred weight each, are annually shipp'd there, whereof about 20 or 25,000 are carried to foreign markets, and the remainder to various parts of the kingdom for home consumption. The duty on coals exported to foreign parts is 6 s. the chaldron of 53 hundred weight, which by law ought to be paid down at the port of exportation before the coals are shipp'd: the duty upon coals carried coastwise, *i. e.* from *Sunderland* to any other part of the kingdom is 5 s. the *Winchester* chaldron (21 whereof are equal to 11 *Sunderland* chaldrons of 53 hundred weight) which duty is to be paid or secured at the port or place of delivery before the coals are delivered.

3. To prevent therefore the exportation of coals to foreign parts, under pretence of carrying them coastwise, and by that means defrauding the crown of the oversea duty, the laws of the kingdom have ordained, that when a master of a ship takes in a cargo of coals, in order to carry it to some other part of the kingdom, he shall become bound to his majesty, with a sufficient security, in the value of the

coals, to deliver them in some part of *Great Britain*, and to produce a proper certificate of such delivery to the officers of the customs at *Sunderland* within 6 months after the date of the bond, otherwise the bond to be forfeited. This bond is called a coast bond, and whenever any master of a ship loading coals enters into such a bond at the customhouse, with some other sufficient surety, a little parchment certificate of the quantity of coals on board his vessel is delivered to him by the officers of the customs at *Sunderland*, to be produced to the officers at the port where he may happen to deliver them. This little parchment is called a coast cocquet. The entering into the bond and granting the cocquet is called clearing coastwise, and the lawful fees due to the officers at *Sunderland* for the bond and cocquet are 5 shillings.

4. When coals are intended to be carried to foreign parts, the law directs, that before any coals are shipp'd, an entry be made at the customhouse of the quantity intended to be carried oversea, and the duty of 6 s. the chaldron paid for the same, and that when the ship is loaded, the master come to the customhouse and make oath to the true quantity taken on board, and that he will take no more on board without acquainting the officers: this is called reporting outwards, and when this is done, a small writing upon parchment under the hands and seals of the officers is granted to the master, certifying, that he has paid his majesty's oversea duty for such a quantity of coals, and then he is at liberty to proceed upon his voyage. The fees due to the officers on this occasion are 2 s. 6 d. for the report, and 3 s. 6 d. for the cocquet, besides which, the collector receives 1 s. 6 d. for the report and entries, and the searcher's deputy a fee of 2 s. 6 d. making

making in all 10 s. This is called clearing oversea directly.

5. After a master had cleared coastwise, it often happened that whilst he was detain'd at the loading port by contrary winds, or, in his passage along the coast, he had advice that coals bore a better price in *Holland* than at home, but as he had obliged himself to deliver his coals in *Great Britain*, he was deprived of the opportunity of profiting by this advice, and of selling his coals to the best advantage. The legislature always ready to promote the interest of trade, and to give all proper encouragement to it, to remedy this inconvenience, by a clause in an act passed the 9th year of *Q. Anne*, permitted masters of coal-loaden vessels who had cleared coastwise, and afterwards thought it would be for their advantage to carry their cargoes oversea, to enter and pay the oversea duties at any port in *Great Britain*, and then to go oversea accordingly. The officers of the customs were directed, upon any master's producing his coast cocquet, to accept the oversea duties, and to grant him a certificate of the payment thereof, by which his coast bond was to be discharg'd as fully and effectually as if he had delivered his coals in *Great Britain* according to the condition of it. But it is to be observed, that this was only in case the master entered and paid his duties before he went oversea. The lawful fees due to the officers at *Sunderland* on this occasion are 2 s. 6 d. for the report, 3 s. 6 d. for the cocquet, and 3 s. 4 d. for the certificate to discharge the coast bond, besides which, the collector receives 1 s. 6 d. for the report and entries, making in all 10 s. 10 d.—This is called clearing oversea after being cleared coastwise.

6. It sometimes happened, that a master who had cleared coastwise, and really intended to deliver his cargo

cargo of coals in *Great Britain*, whilst he was sailing along the coast on his way to his delivering port, met with violent storms of wind, which forced the ship oversea into foreign parts, where the master delivered his cargo of coals, contrary to the condition of his bond, and without having first paid the oversea duty for his cargo, either on account of some damage his ship might have received in the storm, or to prevent loss of time by returning to *England*. In this case it is plain, that in strictness the penalty of the bond was forfeited, but that it was reasonable that some relief should be afforded to masters who were really in such distressed circumstances. And accordingly we find, that as early as the year 1680, in the reign of *Charles II.* a writ of privy seal was issued, whereby it was directed, that if any master should make it appear upon oath, to the satisfaction of the officers of the Exchequer, that he was forced oversea, and should produce a certificate of the payment of the duty from the officers of the customs, the penalty of his bond should be remitted, and the officers of the exchequer should discharge it: but that if any master should go oversea voluntarily, without first paying the duty for his coals, then before his coast bond should be discharged, he should not only pay the duty of the coals, but also such a composition for his offence as the lords of the treasury, or the lord chief baron of the exchequer should agree to. This writ of privy seal has been renewed from time to time, and particularly at the commencement of his present majesty's reign, and is still in force.

7. The indulgence granted by this writ, and intended only for such masters as should be really forced oversea, has been most notoriously abused. Masters have gone oversea voluntarily, delivered their cargoes of coals in foreign parts, without paying

ing duty, kept the duties in their hands as long as they thought proper, some of them for many years, and at last, when they chose to pay the duty, made oath they had been forced oversea, and so got their bonds discharged. Formerly only about 30 or 40 cargoes were carried oversea in a year without payment of duty, by degrees they encreased to 80 or 90, and at length, about the years 1742 or 1743, the practice became universal; almost all the oversea trade was carried on in this manner, and 3 or 400 cargoes in a year were exported without payment of duty, and all the masters (a very few excepted) swore they were forced oversea, in order to get their bonds discharged, and were all undoubtedly perjured. 4000*l.* at a time has been due for arrears of duty for coals exported in the space of a year or two. Some masters indeed there were who kept clear of perjury, for they made no affidavits at all, but very quietly pocketed the duties, in hopes they would never be called for; nor were they much out in their expectations, for there are at this day above 500 coast bonds in the Exchequer, some of them of as old a standing as the commencement of the present century, the duties whereon amount to upwards of 5000*l.* a great part of which, if not all of it, will probably be lost.

8. Those who are not acquainted with *Sunderland* or sea affairs, may think it probable that many of those masters who swore they were forced oversea, were really forced, and will hardly believe that so many men in such a small town, would be guilty of such repeated perjuries, and may perhaps think it rash in me to assert so positively that they were; but such persons do not know that masters pretend to have been forced oversea, in the midst of the finest summers, and not for one single voyage only,
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but for seven or eight voyages successively. They do not consider that the coal fleets between *London* and *Newcastle*, navigating the same tracts of sea, and exposed to the same vicissitudes of wind and weather, pass and repass, without a single ship's being forced oversea in a year: nor do they know that the *Sunderland* masters themselves make no secret of their going oversea voluntarily, that they confess it among their intimates, and in private conversations, and make a mere laugh and joke of their oaths.— In short, the fact is too notorious to be doubted.

9. To remedy in some measure these disorders, an act was passed in the 23^d year of his present majesty's reign, whereby it was enacted, That no master should be cleared out again at any custom-house 'till the duties of his last preceding coal-voyage are paid, and that if any master were convicted of going oversea voluntarily, without payment of duty for his cargo of coals, he should forfeit 5 s. for every chaldron so carried oversea. No doubt but the legislature, according to the information they had of these matters, thought that these would be effectual restraints, and that every master would now pay the duties before he carried the coals oversea, when he saw that he would be obliged to pay them immediately after his return, and that he would never perjure himself merely to gain a respite of 2 or 3 weeks, especially when he was liable to such a great penalty if it were proved that he went oversea voluntarily. But certain it is, that the practice of carrying coals oversea without payment of duty, and swearing they were forced oversea, still continues, and perhaps masters are less scrupulous about the oath than ever: as to the penalty, they know they are in no danger of incurring it, because none but seamen can prove upon oath that they went oversea voluntarily, and were
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any seaman to do this, no master would ever employ him again.

10. A person, who probably spoke under the direction of the Fitters of *Sunderland*, asserted lately in a court of justice, that the reason why the masters still pay the duty after their return, instead of paying it before they go oversea, is, because they have not money to pay it 'till the coals are sold. In answer to this, it may suffice to observe, that 'till within these 10 years last past, the duties (a few excepted) were always paid before the coals were carried oversea, and it is presumed the town of *Sunderland* is not poorer now than it was formerly, and a small addition being made once for all to the stock of every ship trading oversea, would always enable the master to pay the duty beforehand: besides, is it lawful for a man to perjure himself because he has not money to pay the duty? It seems by this, that the act, which was intended as a restriction, is now look'd upon ^{as} a licence.

11. It is however not only highly scandalous, but dangerous to society, that such a cool, willful, and deliberate practice of perjury, should be suffered to subsist. There are three effectual methods of putting an end to it; one is, for the legislature to oblige all masters to pay an additional duty of 1 s. the chaldron for all coals carried oversea without first paying duty: another is, to alter the writ of privy seal, and to oblige all such masters to compound for the offence (without paying any regard to their oaths) as is directed with respect to those who go oversea voluntarily: the third is, to be content with their paying the duty at their return, and not to require any oath at all concerning the manner of their going oversea; to make no enquiry, whether they were forced or went voluntarily oversea, but to direct the officers of the customs, upon
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the arrival of such masters, to call for their coast cocquets, and to take their oaths to the true quantity of coals exported, and their not having committed any fraud, in the same manner as is done when duty is paid before the coals are carried oversea, and thereupon to grant them a certificate to discharge their coast bond. And perhaps this last method is preferable to the other two, for it is certain trade ought to be as free as possible, and no greater restraints laid upon it, nor no more oaths required than are barely necessary for the prevention of frauds. / Since masters will perjure themselves in order to defer the payment of duty till their return, they may as well be permitted to pay it at their return without perjury, and by the regulation last mentioned the occasion of their perjury will be taken away without any ^{furthor} ill consequences to the revenue.

12. It is to be observed, that when a master after being cleared coastwise pays the duty before he goes oversea, as the act of the 9th of Q. Anne directs, the fees due to the officers of the customs are legally settled as appears in Sect. 5. but when a master after being clear'd coastwise pretends to be forced oversea, or goes oversea voluntarily, and pays duty after his return, the fees due to the officers are not, nor could they be any where particularly specified, because the masters proceeding is irregular, and a breach of law, and the table of fees extended only to such acts and services as the officers are required to do by law. However, it is plain that fees are due to the officers, and ought to be taken in the latter case as well as in the former. For the business done is in effect the same in both cases; in one case the duty is paid, and the certificate granted before, and in the other after the coals are carried oversea. It will not surely be said that a master who is guilty not only of a breach of law, but of perjury too,

too, merits an exemption from fees which he who acts legally is obliged by law to pay for the same business. Besides, it is, and has been, time out of mind an allowed and establish'd custom both at *London*, and all other ports in the kingdom, for officers to receive a moderate recompence for extraordinary services not required by law: the services in question are extraordinary services not required by law, the law has determined what fees ought to be paid when the same services are applied for in a legal, and regular way; those masters by going over sea unclear'd avoided these fees, if therefore at their return the officers do the same business for them, and take any recompence which does not exceed the fees they avoided, that recompence must be moderate, just, and reasonable. Such masters are favour'd, and not imposed upon, when they are charged any thing less than 10 s. 10 d. the fees which would have been due if they had clear'd fairly and honestly.

13. Accordingly we find that at *Scarborough*, a member of the port of *Hull*, the lawful fees due to the officers of the customs when a master after being cleared coastwise pays the oversea duty before he goes over, according to the 9th of Q. *Anne*, are 1 l. 1 s. 0 d. and the very same sum is, and always has been, received for fees upon payment of duty there by a master forced oversea.—At *Whitby*, a member of *Newcastle*, the lawful fees, due to the officers, when a master, after being cleared coastwise, clears, and pays the oversea duty honestly before he goes over, are 17 s. 4 d. and the very same sum is, and always has been, received there for fees upon payment of duty by a master forced oversea.—At *Newcastle* in the like case the lawful fees are, as I have been inform'd (for I have no other ground but information for this) 13 s. 4 d. when a master clears regularly; and the fees received there upon pay-

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ment of duty by a master forced oversea I know, were 8 s. in the year 1747, and I am told they have since been encreased to 9 s. but of this I am not fully convinced, nor can I find by what rules, or upon what grounds, the officers at *Newcastle* determine these fees.—At *Sunderland* the fees received upon payment of duty by masters forced oversea, have always been proportioned to the trouble arising to the officers, and the business, and services done for the masters, but so as never to exceed 10 s. 10 d. the fees which were avoided by going oversea without payment of duty. Formerly no bonds given for coals carried oversea, without payment of duty, were discharged at the port, they were not numerous, the officers had little trouble, and perhaps believed the masters were really forced oversea by distress of weather, and the fees then received were 6 s. But sometime within these 13 years last past, the officers took upon them to discharge at the port all the bonds whereon the duties were paid within six months after the date of the bond, and when the bonds and affidavits became so numerous that alphabetical registers became necessary for the finding out any particular bond; and when, beside the certificates of payment of duty annexed to the bonds, receipts for the duty were desired, and given to the Fitters and masters for private vouchers, the fees were encreased to 10 s. 6 d. on account of the additional trouble, and these further indulgences, and advantages granted to the Fitters and masters. At *Midsummer* 1748, a new regulation took place pursuant to the writ of privy seal, and an order of the board of customs, and all bonds whatever given for coals carried oversea without payment of duty, and dated after *Christmas* 1747 (for none dated after that time were paid before *Midsummer* 1748) were sent into the exchequer to be discharged there, and

as hereupon the given receipts for the duties were discontinued, and bonds paid within 6 months were no longer discharged at the port, and all masters were obliged to be at the expence of getting them discharged in the Exchequer; the officers reduced their fees to 5*s.* 10*d.* and this regulation and rate of fees, excepting a small advance of 2*d.* lately made, still subsists. Hence it appears that the officers at *Sunderland* have always been equitable, and moderate, with respect to these fees, and indeed much more so than the masters, and the practice, deserved; they would perhaps have done better if, after the example of the officers at *Whitby* and *Scarborough*, without all these variations, they had always received the full sum of 10*s.* 10*d.* the fees avoided by going oversea uncleared, to which without doubt they were justly entitled, and the not taking which, was only an encouragement to perjury and irregularities. *Newcastle*, *Sunderland*, *Whitby*, and *Scarborough*, are almost the only ports where duties are paid by masters forced oversea, and of these by far the greatest number are paid at *Sunderland*.

14. Tedious, I'm afraid, this long induction of particulars will seem to many of my readers, but it was absolutely necessary in order to enable them to comprehend what follows; and to explain the nature and reasons of the fees mentioned in the two last preceding sections, the taking a small part whereof, was the pretence made use of for compassing the dismissal of the officer, whose case we are to relate, and yet the collector, and customer, who received by far the greatest part of these fees, were never complained of, and are still in office.

15. The late deputy comptroller of *Sunderland* was appointed to that office in 1738, by *Tho. Archer* Esq; patent comptroller of the port of *Newcastle*, and its members. In 1743 Mr *Archer* died, and
William

William Sharpe, Esq; one of the clerks of the privy council, succeeded him; and although the deputy at *Sunderland* was entirely unknown to him, he was pleased to continue him in that post, till the year 1749; when a petition sign'd, as I have been inform'd, by about sixty inhabitants at *Sunderland*, was presented to Mr *Sharpe*, who thereupon dismiss'd his deputy. The motives that induced the inhabitants to this petition, and the allegations therein contained, we are now to consider and unfold.

16. In *February* 1747 there were upwards of 4000 *l.* due to the crown for arrears of duty upon coast bonds given for coals carried oversea within the small space of two years then last past; this the deputy comptroller represented to the commissioners of the customs, and proposed an expedient for hastening the payment of the money; and the commissioners were thereupon pleased to direct, that no Fitter should be permitted to enter into fresh coast bonds 'till the duties due upon former bonds were paid. It was also owing to the deputy comptroller, that after *Midsummer* 1748, coast bonds given for coals carried oversea without payment of duty, were no longer discharged at the port, but all, without exception, sent into the Exchequer to be discharged there. These two steps, as they had a direct tendency to restrain the darling practice of detaining the duties and going oversea uncleared, and to expose them in all their enormity to the Exchequer and the commissioners, were highly disagreeable to some Fitters and Masters of *Sunderland*, and provoked them so much, that they resolved, at any rate, to have the deputy comptroller dismiss'd: and accordingly a petition was prepared, wherein it was alledged, that the deputy comptroller oppress'd trade, by exacting illegal fees, and taking exorbitant sums, for procuring orders on affidavits
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of Masters forced oversea, and getting their bonds discharged in the Exchequer, and pray'd that therefore he might be removed.

17. By illegal fees were meant the fees mentioned in Sect. 12 and 13, and we presume we have there fully shewn, that these fees were so far from being oppressive to trade, that they were rather an encouragement to an illicit practice, by being less than the fees wherewith trade was chargeable, when carried on under the legal regulations. As to what is alledged concerning the sums taken for procuring orders and discharging bonds, in the first place, it was the fault of the masters (and a very great fault it was) that any affidavits at all were necessary, or that any bonds were sent into the Exchequer; and in the next place, if they would swear, and would keep the duties in their hands, and suffer the bonds to be sent into the Exchequer, it was their own business, and not any officer's, to procure orders to accept the duties, and to send up the certificates to some correspondent at *London*, to get their bonds discharged, or else to employ somebody to do these things for them. Now, as the officers of the customs had a correspondence at *London*, and were best acquainted with the method of application on these occasions, the Fitters of *Sunderland* desired Mr *Alcock*, formerly deputy comptroller of *Sunderland* (as he told me) to get these things done for them when necessary, and agreed to pay him certain stated sums on these occasions. At the decease of Mr *Alcock*, the late deputy comptroller undertook to do this business for the Fitters and Masters upon the very same terms, and in many instances contented himself with less than had been allowed before. This business, therefore, was the business of the Fitters and Masters themselves; they were at liberty, and knew they were at liberty, to employ whom

whom they pleased to do it, and no body either could or would do it without their express order or consent; and yet here they complain of this as an oppression, which was originally their own act, and which it was in their power to remedy whenever they pleased. If they thought the terms too high, they had nothing more to do than to employ other persons, or to get the business done themselves.—As therefore the complaints concerning the sums paid for procuring orders on affidavits, and getting bonds discharged in the Exchequer, are manifestly absurd and ridiculous; and as the collector and customer, who received the greatest part of what are called illegal fees, were never complain'd of at all, there is the strongest reason to believe, that the leading men who set the petition on foot knew very well that there was no weight in the allegations, and made use of them only as pretences, to give a colour to the application they intended to make for the dismissal of an officer, who had rendered himself obnoxious upon a quite different account.

18. There is no doubt but Mr *Szarpe*, after he had heard what his deputy had to say, saw very clearly that the complaints against him were groundless: but an application countenanced and supported by members of parliament was to be regarded; he probably apprehended too, that the people of *Sunderland* were irreconcilably exasperated against his deputy, and that he should be perpetually teiz'd with complaints and applications; besides, he had at that time a distant relation to prefer, so that perhaps any gentleman in the like circumstances would have done as he did, that is, dismiss'd his deputy. Certain it is, that the deputy has no right at all to complain of Mr *Szarpe's* conduct on this occasion; he only held his post during Mr *Szarpe's* pleasure,
and

and Mr *Sharpe* might have dismissed him whenever he pleased, without doing him any injustice, and without any cause, or even without making use of any pretence at all.

19. In order to show in the plainest and most incontestable manner that the trade of *Sunderland* was not oppress'd by any impositions or illegal fees, we shall here exhibit some calculations, by which it will appear, that masters of ships by their illegal proceedings, not only saved very considerably in respect to customhouse fees, but also have deprived and defrauded the crown and the Exchequer of very great sums since the commencement of the present century ; the revenue and the officers had great and just cause to complain of them, but they have none at all to complain of the officers.

20. Between the years 1742 and 1749, both exclusive, the number of cargoes of coals carried oversea annually, without paying duty, were about 400: the masters all swore they were forced oversea, and perhaps about 10 in a year might be really forced ; there remains therefore 390 in a year who went oversea voluntarily, and, a few excepted, got their bonds discharged (without compounding and paying the Exchequer fees) by swearing they were forced: some few at first, by being closely examined, did confess they went oversea voluntarily, and swore accordingly ; and the composition settled by the lord chief baron of the Exchequer was 1*l.* or 1*l.* 6*s.* 8*d.* according to the penalty of the bond, but never less than 1*l.* and the Exchequer fees, upon discharging bonds by composition, amount to about 4*l.* which makes in all 5*l.* the payment whereof was avoided by those who swore they were forced. The number of cargoes carried oversea annually, without payment of duty, from the commencement of the present century, to the
year

year 1743, may be about 50 in a year at a medium. This is what is necessary to be premised for the understanding the following estimates and computations.

If duties had been paid for the 400 cargoes exported annually between 1742 and 1749, before they were carried oversea, as the law requires, the masters would probably have cleared at *Yarmouth*, *Whitby*, or *Scarborough*, the ports used by such as do clear regularly; and we will suppose 200 to have cleared at *Yarmouth*, and 100 each at *Whitby* and *Scarborough*; the lawful fees at *Yarmouth* are 12 s. 6 d. at *Whitby* 17 s. 4 d. at *Scarborough* 1 l. 1 s.

Now 200 ships at *Yarmouth*, at

12 s. 6 d. amount to	£. 125	0	0
100 ships at <i>Whitby</i> , at			
17 s. 4 d. —————	86	13	4
100 ships at <i>Scarborough</i> at			
1 l. 1 s. —————	105	0	0

Total amount of the fees they would have paid in a year, if they had cleared regularly

£. 316 13 4

Which for 6 years amounts to £. 1900 0 0

The fees paid at *Sunderland* when they were at the highest, and when the coast bonds were or might have been all discharged at the port, in the same manner as if the masters had clear'd regularly, were as follow:

400 ships at £. 0 10 6 £ 210 0 0

And supposing 200 of the duties were not paid 'till the bonds were upon the list, and ready to be sent into the

Exchequer, then 6 *d.* a bond
more was paid, which a-
mounts to

£. 5 0 0

£. 215 0 0

This for 6 years amounts to £. 1290 0 0

Difference saved by the masters in
fees, in 6 years, by proceeding illegal-
ly, being less than they would have
paid if they had cleared regularly £. 610 0 0

It will be said, perhaps, that many of the bonds were sent into the Exchequer, and that such as were in process cost the masters 4 *l.* 1 *s.* and such as were not in process 1 *l.* 1 *s.* before they could get them discharged. The answer to this is easy, the masters ought not to have suffer'd their bonds to be sent into the Exchequer; if they had paid the duties within 6 or 8 months, they might have been all discharged (as the greatest part of them were) upon the easy terms abovementioned, which are so low, that if the masters had cleared oversea directly at *Sunderland*, the lawful fees due would not have been less. At this day, though they pay but 6 *s.* at the customhouse, yet they pay the attorneys 11 *s.* 6 *d.* for getting the bonds discharged in the Exchequer, which is 6 *s.* 6 *d.* more than the fees complained of, and paid to the officers when the bonds were discharged at the port.

21. Having thus shewn how vain and groundless the complaints of oppression in point of fees were, we will now shew the loss to the crown and Exchequer by these illegal perjured proceedings.

By what we have premised it appears, that 390 times in a year, between 1742 and 1749, masters, by swearing they were forced over-

sea, avoided the payment of 5*l.*
due for the composition and Exche-
quer fees, which amounts to

£. 1950 0 0

This for 6 years amounts to £. 11700 0 0

But in the 2 or 3 first years of
the 6, about 30 masters confess'd,
upon close examination, that they
did go oversea voluntarily, and paid
the composition and fees, so that we
must deduct

£. 150 0 0

Remains £. 11550 0 0

From 1700 to 1743 exclusive, is
42 years, during which time, about
40 cargoes in a year were carried
oversea voluntarily, and the bonds
discharged, by swearing they were
forced, except about 500 yet stand-
ing out. Five hundred out of 1680
leaves 1180, which at 5*l.* each a-
mount to

£. 5900 0 0

To this must be added, the du-
ties due upon 500 coast bonds, in
process in the Exchequer, and now
standing out unpaid, which, as the
bonds are most of them of an old
standing, and the sureties dead, will
probably be lost, and, upon a mo-
derate computation, amount to

£. 5000 0 0

Total loss to the Crown and Ex-
chequer, from the commencement
of the present century, to the year
1749, by the *Sunderland* masters
swearing they were forced oversea,
and detaining the duties

£. 22450 0 0

22. But

22. But to return to our officer, no sooner was he dismiss'd than one *Hodgkin*, an attorney, who had been very diligent in inculcating a notion, that no fees were due to the officers of the customs, upon payment of duty by masters forced oversea, except 1 s. or some such matter, which he had taken into his head to allow, and was employ'd by the petitioners as their agent in soliciting the deputy comptroller's dismissal, brought three actions against him, either to create himself business, or out of a spirit of malice and revenge, because the deputy comptroller had once told him, in the customhouse, when he was asserting that a certain order of the commissioners was illegal, that he fancy'd the solicitor of the customs, with whom the commissioners advised, was as great a lawyer as he. One of these actions was brought in the name of *Charles Wellbank* (a person who could never be found) on pretence that the deputy comptroller had acted as an attorney or solicitor in the Exchequer, without being qualified according to law. The ground for this pretence was, because the deputy comptroller had taken affidavits in the Exchequer, and sent up certificates of payments of duty to the Exchequer, to get coast bonds discharg'd for Masters and Fitters. As to taking affidavits, he had the lord chief baron's commission for doing so, and as to sending up certificates any body may do it, it is no more than writing a letter to a friend desiring him to get a certain business done, neither of which are within the description the law gives of acting as an attorney, or solicitor, in the courts of law or equity. This action the attorney thought proper to drop, and never declared upon it. The other two actions were brought in the names of *Peter Fea* and *William Forster*, two masters of ships, and it was given out that taking illegal fees

fees was the cause of them. *Fea* confess'd to Capt. *John Wall* of *Sunderland*, that he had been prevailed upon to lend his name to the action, and was to be at no expence. *Forster* likewise told several persons, that the action was brought without his express order and consent, and contrary to his inclination, but I am inform'd that he hath lately been perswad-ed (two years after the action was brought, for all three were brought in 1749) to give it under his hand for the attorney's security, that he did consent to the action. *Hodgkin* never thought proper to bring *Fea's* action to trial, and the deputy comptroller hath moved the court of King's bench to have it *non pross'd*, which is to be determined next term. *Hodgkin* gave notice of trial for the assizes 1751, in *Foster's* cause, but when the deputy comptroller had got every thing ready for trial, *Hodgkin* sent a countermand a day and a half before the assizes. Upon this the deputy comptroller mov'd the court of King's Bench for a nonsuit, or a trial, and the court order'd the cause to be peremptorily tried at the assizes 1752. An account of which trial we are now to give. Hence it may be observed that speaking freely to *Hodgkin* was a crime not to be expiated but by all the vexations, and malicious prosecutions, that the intemperate rage, and mortified pride, of a mischevius attorney could excite: and it is too notorious that some attorneys there are (and perhaps not a few) who are the pests of society, and the grievances of the nation, who make it their business to foment discord, and sow dissention, who convert the law into a nuisance, and make it a mere engine to wreak their vengeance, to gratify their malice, or to fill their purses, and are govern'd only by the dictates of rage, or the views of rapacity.

23. To return to the trial. *Forster's* declaration was

was general for money, had and received, nothing was particularized, and as masters of ships clear frequently at the custom house, and are engag'd in variety of transactions there, it could not be known by the declaration, what particular matters were laid to the deputy comptroller's charge, or what bond, or what clearance, it referr'd to; and the particular cause of action was all along industriously conceal'd, nor did he know it particularly 'till he came into court. However, as he was conscious, they could truly charge him with nothing but what might be accounted for to the satisfaction of the court, and never imagined that the perjury, which had hitherto confined itself to *Sunderland*, would have dared to appear openly in the courts of justice at *Durham*; he moved, as has been before observed, for a trial. And upon this trial *Geo. Thompson*, formerly a master of a ship, then a Fitter, and now surveyor of the customs at *Sunderland*, swore: 1. That on *July 19, 1748*, he paid to the deputy comptroller 22*l.* 10*s.* 2*d.* upon a coast bond, given by *William Forster* *March 3, 1747*, for 66 chaldrons of coals. The duty of that quantity amounts but to 19*l.* 16*s.* and it was insinuated that the deputy comptroller must have put the surplus, amounting to 2*l.* 14*s.* 2*d.* into his own pocket; and *Thompson* swore that the deputy comptroller refused to tell him what the surplus was for. 2. *Thompson* swore further, that on *July 19, 1748*, and *January 3*, and *February 17, 1748-9*, he likewise paid to the deputy comptroller 11*s.* each, for fees upon payment of the duty due upon three coast bonds of *Forster's*, dated *March 3, 1747*, *June 1, 1748*, and *July 19, 1748*. 3. He likewise swore, that 15*s.* had been formerly paid at *Sunderland*, for custom house fees upon coast bonds: and as it was observed, that *Forster* cleared out again on *July 19, 1748*,

1748, the day whereon the duty of the bond dated *March 3, 1747*, was paid, and that *Thompson* probably might have jumbled the duty, and clearing charge together in his books; to get rid of this objection, he fairly swore, that the master did not clear out again the same day whereon the duty was paid.— We shall shew presently, in the clearest manner, that all these particulars are utterly false; but as *Forster's* counsel would not suffer Mr *Lambton*, the collector of *Sunderland*, to give evidence; and as the collector's chief clerk, not knowing what particular bonds they went upon, had not examined the papers in the customhouse relating to these bonds, he could only swear, that he was fully perswaded the sums paid, were much less than what *Thompson* had sworn to, but could not say whether he was present in the customhouse at the times, or to whom they were paid; *Thompson's* evidence therefore not being fully contradicted, the jury gave a verdict for *Forster*, with 12*s.* damages.

24. Since the trial, upon examining the entries, papers, and certificates in the customhouse and Exchequer, relating to these three bonds; it appears, that the duty of the bond dated *March 3, 1747*, which *Thompson* swore was paid to the deputy comptroller, was actually paid to Mr *Lambton* the collector, for the certificates of payment of duty upon that and another bond of *Forster's*, dated *May 9, 1748*, paid at the same time, are sign'd by the collector himself, and therefore he must have been present and received the duties; so that nothing can be more false, or more execrably malicious than the insinuation, that the deputy comptroller received 2*l.* 14*s.* 2*d.* more than was due, and refus'd to tell what it was for, since the whole duty, let it be what it would, was paid to the collector; and I am fully satisfied that no more than the sum hereafter mentioned was paid
to

to the collector, and that 22*l.* 10*s.* 2*d.* never was paid at all. Both the duties are included in one bill of entry, which shews they have been paid at the same time. The collector's entries are wrote by the collector's clerk, and the rest by the customer's clerk, which proves they were present when the duties were paid. And, indeed, no duties could be received unless either the collector or his clerk were present, because the cocquets and affidavits of the masters, were under the joint locks of the collector and comptroller, and without the cocquet and affidavit, the master could not have got his certificate to discharge his bond. It also appears by the deputy comptroller's private cash book, which he has shewn to several persons, and will shew to any who desire it, that he received no more than 1*s.* his fee, for the certificate upon the bond dated *March 3, 1747*, and 5*s.* 6*d.* for *Foulness* and *Castor* lights, due thereupon, on account of the master's clearing short, and whereof he was appointed receiver. It is also certain that no more than 21*l.* 3*s.* 10*d.* was paid in all upon that bond, whereof 19*l.* 16*s.* the duty was paid to the collector, 5*s.* 10*d.* fees to the collector, customers, and comptroller, and 1*l.* 2*s.* for short cleared lights to the collector and comptroller, who were receivers of them. / I would observe further, that as *Forster's* bond, dated *May 9, 1748*, was paid the same day, and as *Thompson* took no notice of this in his evidence, it is not improbable but part of the duty on one bond may have been borrowed, and lent to the other, in order to make the duty on that other higher than it really was, and as the fees upon two bonds, paid at the same time, must have been the same; it is extremely odd the bond of *May 9, 1748*, was not included in the action.

25. As to the 11*s.* sworn to have been paid for fees

fees to the deputy comptroller, upon each of the three bonds; it is certain that no more was paid in the whole, for fees upon each bond than 5*s.* 10*d.* whereof the collector received 3*s.* 8*d.* the comptroller 1*s.* and the customer 1*s.* 2*d.* It must be well known to all the Fitters in *Sunderland*, that after *Midsummer* 1748, (and these three bonds were all paid after that time) when the regulation for sending all the oversea bonds into the Exchequer took place, no more than 5*s.* 10*d.* in all was received at the customhouse, for fees upon the payment of duty upon any bond, and I appeal to them for the truth of it, as this therefore was a matter of public notoriety, and as we have shewn the collector, or his clerk, must have been present and received their fees; Is there the least probability that in the public customhouse, the deputy comptroller would ask, or that *Thompson* would pay 11*s.* when 1*s.* was known to be his usual fee at that time? And that he should pay it too without grumbling, complaining, or expostulating, (for he swore this, as we should have observed before) and three several times, one three weeks, another six months, and another seven months, after the regulation took place. The deputy comptroller will shew his private cash book to any body, and it appears there that he never received more than 1*s.* for fees upon any bond paid after *Midsummer* 1748, which the officers can also testify, nor did *Forster* ever employ him to get any of his bonds discharg'd in the Exchequer.

26. With respect to the other two particulars sworn by *Thompson*.—All the Fitters in *Sunderland* know that there never was a time when 15*s.* was paid for customhouse fees upon coast bonds: and it appears by the customhouse books, and by the cocket, and certificate, now in the custody of the king's deputy remembrancer in the Exchequer; that

Forster

Forster cleared out on *July* 19, 1748. the day whereon the duties of the bonds dated *March* 3, 1747, and *May* 9, 1748 were paid.—These two particulars can be proved in the clearest, and most authentic manner, and are flat, and full contradictions to what *Thompson* has sworn.

27. C— *Hanson* the present d^{deputy comptroller}y c^l—l—r of S^{underland}, was another of *Forster*'s witnesses, and tho' what he swore was not very material, yet it was false too as well as the rest. For he swore, that the fees due for a certificate of payment of duty by a master forced oversea, according to the table of lawful fees, were 3*s.* 6*d.* whereof 1*s.* 2*d.* each, belong'd to the two deputy customers, and deputy comptroller. Now there is no such thing in the table of fees as a fee of 3*s.* 6*d.* for that certificate: There is indeed a fee of 3*s.* 4*d.* for an inward cocquet and certificate, when a cargo carried coastwise is delivered according to the condition of the bond. The only fee of 3*s.* 6*d.* in the table, is the fee for a foreign cocquet, whereof 6*d.* belongs to the searcher. It must therefore be own'd that Mr *Charles Hanson* has sworn very freely, and too readily to serve his friends; and to evince this, in the most irrefragable manner, I here subjoin a copy of the table of lawful fees at *Sunderland*, which may at any time be verified, by comparing it with the table publickly affix'd in the customhouse there, and clearly disproves what *Hanson* has sworn.

The TABLE of Lawful Fees due to the Officers of the Customs at *Sunderland*.

The TABLE of Lawful Fees due to the Officers of the Customs at <i>Sunderland</i> .								
	Two Customs and Comptroller's Fees.		Searcher's Fees.		Antient Perquisites received by the Deputies by virtue of the several Patents.		Total Fees.	
	s.	d.	s.	d.	s.	d.	s.	d.
1. A coast cocquet and entry	—	—	—	—	—	—	—	—
2. A coast bond *	—	—	—	—	—	—	—	—
3. An inward cocquet, and certificate upon a coast bond	—	—	—	—	—	—	—	—
4. A discharge of a coast bond	—	—	—	—	—	—	—	—
5. A foreign entry inwards	—	—	—	—	—	—	—	—
6. A foreign cocquet	—	—	—	—	—	—	—	—
7. Sufferance, general report, and oath on a foreign cocquet, English	—	—	—	—	—	—	—	—
8. A transfire outwards	—	—	—	—	—	—	—	—
9. An entry, and sufferance on a transfire inwards	—	—	—	—	—	—	—	—
10. A sufferance, general report, and oath on foreign goods inwards	—	—	—	—	—	—	—	—
MERCHANT, STRANGERS.								
1. An entry	—	—	—	—	—	—	—	—
2. A cocquet	—	—	—	—	—	—	—	—
3. A sufferance, general report, and oath on ditto	—	—	—	—	—	—	—	—
4. A bond of employment	—	—	—	—	—	—	—	—

* As the coast bond is upon a treble sixpenny stamp, the masters pay 1s. 6d. for stamps besides the fees.

There

28. There was but another witness examined on the part of *Firster*, and he was only brought to prove the copy of a book. To close the account of this trial it will not be amiss to observe, that Mr baron *Legge*, upon summing up the evidence, declared, that officers ought to have a moderate recompence for their labour, and that if the jury were of opinion that the fees of 11 s. swore to by *Thompson*, were the fees usually and generally receiv'd on the like occasions, at the time when they were paid, they should find for the defendant (the deputy comptroller) and the jury found otherwise, because the time when *Thompson* swore the 11 s. were paid, was after *Midsummer* 1748, when the new regulation took place, and when 5 s. 10 d. only, were the fees usually and generally received; and no more than which we have shewn was really paid in the whole to all the officers, tho' *Thompson* swore 11 s. was paid to one.

29. I have these further particulars to add to what has been before observed, concerning the sums paid for procuring orders on affidavits, and getting bonds discharg'd in the Exchequer.—The sums agreed to, and paid by the Fitters to the deputy comptrollers predecessors in the business were 1 l. 1 s. for a bond not in process, and 4 l. 1 s. for getting a bond in process discharg'd, of which last sum 3 l. 12 s. 4 d. was paid into the Exchequer. The deputy comptroller undertook the business upon the same terms, and at last settled a correspondence directly with the Exchequer, and as he had then no occasion to pay, and employ an intermediate agent at *London*, he agreed to discharge bonds, not in process, for 9 s. as he does at this time.—The sums paid him for drawing an affidavit, administering the oath, stamps, and procuring orders to accept the duties, never exceeded 7 s. and what is very remarkable *Hodgkin* the attorney

torney had 10 s. 8 d. paid him for doing the very same business, at the very time when he was sticking against the deputy comptroller, and charging him with taking exorbitant sums on this account. I have also seen a receipt of *Hodgkin's* wherein he charges 4 l. 9 s. for getting a bond of *George Furdison's*, which was in process, discharg'd. It is plain these matters were no part of the duty of an officer, and the deputy comptroller might have taken any sums the Fitters thought reasonable, and would have agreed to, nor did he even take an affidavit, or get a bond discharg'd, but with the consent, or at the special instance and request of the Fitters and Masters; and all who understand any thing of the matter know it is utterly improbable he should, but when a few leading men go about a town with a petition, it is well known that any sort of a story of a cock and a bull, or a roasted horse is sufficient *ad captandum vulgus*, and to get hands to it.

30. It has been said that the deputy comptroller took affidavits, and that a consciencious man ought not to have taken them, if he were persuaded the masters swore falsely.—To this I answer, that soon after he began to take affidavits, he discovered, that the Masters went oversea voluntarily, for, upon examining them closely, several of them confess'd the truth, and swore accordingly, and paid the composition; and for a long time he earnestly exhorted them to swear truly: there was a time when he was greatly exclaim'd against for putting the Masters to this expence, by sifting out the truth, and, upon recourse to therecords of the Exchequer, it will appear, that most, if not all the Masters who made affidavit at *Sunderland*, that they went oversea voluntarily, swore before him. And when he found that examinations, and exhortations, were vain and fruitless, and that Masters were determin'd

to

to swear falsely, to avoid the composition, he represented to the commissioners of the customs, the ill effects that had arisen, and might arise, from the practice, that proper means might be taken to restrain or suppress it, as will appear by the letters and representations in the hands of the commissioners: and this he did at a time when he received very considerable profits and advantages (as he also does at present) by drawing affidavits, and getting bonds discharged in the Exchequer. Had he been the only person in town empowered to take these affidavits, his refusing to take them might probably have given some little check to the practice, but as several officers of the customs, and all the attorneys in town took them, his refusal would only have obliged those masters who came to him, to apply to others, and would not have laid them under any restraint, nor put them to any inconvenience at all. It is pleasant to observe in what different lights the same action is placed, in order to serve different purposes: When an officer is to be decry'd in a court of justice, then his taking affidavits gives Masters an opportunity of perjuring themselves, but when Fitters and Masters are to be exasperated, then he is too strict, too rigid, and too close, in his examinations, and takes too much pains to come at the truth, and to subject Masters to a composition by their affidavits.

31. It has also been asserted, that he was insolent in the execution of his office.—So far is this from being true, that he distinguished himself by his condescensions, and endeavours to oblige: he was always ready to examine the books for Fitters and Masters, to answer any enquiries they made, to write to the ports upon the coast for any returns they wanted, in short, to do any thing for them that was consistent with his duty, insomuch that the
collector

collector often expostulated, nay, sometimes almost quarrell'd with him, upon that account: but he thought complaisance and politeness could never be blameable, and that they were very proper qualifications for a superior officer of the customs. It is true, that whenever it was attempted to evade the duties of the crown, or the light-duties, or whenever smuggling was detected, he then spoke warmly, and acted vigorously.—And probably this was insolence.

32. It has also been given out, that he refused to let people know upon what account the money he received (for he was entrusted with the collection of several light and pier duties) was due.—On the contrary, soon after his admission, and many times since, he gave accounts in writing to several Fitters and Masters, of the items, whereof the several clearing charges, and other charges consisted, when they requested it; and when the hurry of business would not permit giving an account in writing, he always gave verbal accounts; and to the best of his knowledge and remembrance, he never once refus'd, when he was ask'd, to tell any person, upon what account any money paid to him was due; and for the truth of this, he appeals to all who ever paid him money at the customhouse.

33. Endless would it be to take notice of all the other idle reports that have been circulated, but there is a summary way of evincing the falsity of them all, and that is, to trace them to the fountain head; and that, I believe, will be found to be the head of a man well known to teem with such sort of productions: the source being once known, will furnish an antidote for its own poison.

34. Such has been the conduct of this officer, and, I think, it is irreproachable; but the publick must and will determine, and to the publick he appeals,

peals, — *ad populum provocat*. We have used no unfair practices to gain a verdict; the account given is the truth, the whole truth, and nothing but the truth: facts are minutely circumstanced, persons are named and appealed to, and he desires, he calls upon, nay, he challenges, any officers of the customs, Fitters, Masters or others, who have any knowledge of the facts, publickly to gainsay, controvert, or disprove any part of what has been advanced.

F I N I S.

[23]

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